

Bill Number: SB 53
Allan J. Culver, State's Attorney for Carroll County
Opposed

WRITTEN TESTIMONY OF ALLAN J. CULVER,
STATE'S ATTORNEY FOR CARROLL COUNTY,
IN OPPOSITION OF SENATE BILL 53 – JUVENILE LAW
JUVENILE INTERROGATION PROTECTION ACT

I write in opposition to Senate Bill 53, Juvenile Law – Juvenile Interrogation Protection Act, adopting certain requirements for charging and questioning juveniles. The requirements included in Senate Bill 53 would effectively eliminate the ability to question a juvenile in custody for even the most violent crimes, such as rape and murder. Requiring that a juvenile consult with an attorney and that law enforcement attempt to contact the juvenile's parent, guardian or custodian prior to questioning are unnecessary logistical hurdles designed to eliminate the ability for law enforcement to question a juvenile.

Questioning witnesses and suspects is an important tool in law enforcement investigation to reach the truth and obtain a just outcome. Often the questioning begins as a consensual encounter and develops into a custodial interrogation. Law enforcement are already aware of the many factors of a custodial interrogation for Miranda purposes but determining custodial interrogation can be a difficult legal analysis. As a result, many law enforcement officers err on the side of caution and will review Miranda with suspects even when the questioning has not risen to a custodial interrogation. Under Senate Bill 53 law enforcement will be deterred from taking a conservative analytical approach on custodial interrogation with juveniles because it will effectively end the ability to question the juvenile.

If the concern that produced Senate Bill 53 is that juvenile's rights are being violated during custodial interrogations, then simply require that all juvenile custodial interrogations be audio and video recorded. In today's high-tech world, it is a rare occasion where a custodial interrogation cannot be audio and video recorded. It is in the best interest of all parties involved that a juvenile custodial interrogation be audio and video recorded. Such an interrogation can then be reviewed prior to any trial by the court and barred from being used against a juvenile if the court has any concerns about the interrogation.

Statements given by suspects are not only used at trial but are often used to further investigations. Information that law enforcement officers receive from questioning individuals involved in a criminal investigation may lead to the recovery of evidence and the identification of other suspects. This benefit is no different with juveniles. Under Senate Bill 53 law enforcement would lose this opportunity to further their investigation. In Carroll County we had an attempted murder case where during their interrogations the juvenile suspects admitted to having a "hit list" of other targets. By receiving this information law enforcement was able to notify these individuals on the hit list and take measures to ensure their safety prior to any possibility of the juveniles being released into the community.

Statements given by juveniles during criminal investigations can also work to the juvenile's benefit. In 2018 I handled a home invasion case where a juvenile and four (4) adult codefendants had a firearm, broke into a home, and took items from the home. The juvenile suspect was detained and agreed to provide a statement. The juveniles statement limited the juvenile's culpability in the case. Based upon the juvenile's statement law enforcement were able to confirm the juvenile's limited culpability which significantly benefited the juvenile in the disposition of the case.

I urge an unfavorable report to Senate Bill 53 as this new law effectively ends the ability of law enforcement to question juveniles in custody.